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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,018	07/20/2005	Terry Johnson	P08529US00/DEJ	9396

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EXAMINER

CHEEMA, AZAM M

ART UNIT	PAPER NUMBER
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2109

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/520,018

Applicant(s)

JOHNSON, TERRY

Examiner

Azam Cheema

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 46 and 56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Lack of enablement as the specification does not provide for infinite capabilities.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1,31,35 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

The claim 1 recites the limitation "said central processing station" in line 8. There is insufficient antecedent basis for this limitation in the claim.

For claim 31, the second sentence renders the claim indefinite.

The claim 35 recites the limitation "said central processing station" in line 10.
There is insufficient antecedent basis for this limitation in the claim.

The claim 40 recites the limitation "said central processing station" in line 10.
There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-22, 33-40, 42, 46-54, and 58-59 are rejected under 35 U.S.C. 101
because the claimed invention is directed to non-statutory subject matter.

The claims 1-22,33,34,46 and 58-59 fail to place the invention squarely within one statutory class of invention. Claims 2 and 20 provide evidence that applicant is claiming transmitted data, or in other word electronic signals. As such, the claims are drawn to a form of energy. Energy is not one of the four categories of invention and therefore this claim(s) is/are not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefor not a composition of matter.

For claims 47-54 the limitation "may" does not definitely claim the recited function.

The claims 35-40 and 42 are rejected as falling under the judicial exception of an abstract idea which lacks a useful, concrete, and tangible result. A claimed series of steps or acts that do not result in a useful, concrete, and tangible result are not statutory within the meaning of 35 USC 101. In the instant case, the claims recite, "updating" "output," "adjust," and "transmit." However, no useful, concrete, and tangible result is claimed. For example, "writing said data," "updating said data," "sending said data" being claimed at the end of the claim may comprise a useful, concrete, and tangible result. Absent such a result, however, the claims are not statutory.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-8,12,14,16,18,21-23,26,35,38,40,45,53 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferrer et al, US2002/0032628.

For claim 1, Ferrer et al teaches:

A system for collecting and/or adjusting and/or manipulating data from a data stream'. the system comprising ; a source of electronic data, an input provided by the source of data and capable of transmission of said data to a first data processing station (payment card and loyalty card transmitting data to loyalty terminal,

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see [0048]) ; an output in communication with said data processing station (output reports, see [0050]', an intelligent interface intermediate said input from said source of electronic data and said central processing station', wherein, the interface is capable of interrupting data transmitted between said input and the first processing station to adjust and /or compile at least a part of said data (see [0065]) .

For claim 2, data is transmitted to a peripheral device in communication with processing station (see [0048]).

For claim 3, data is transmitted to a secondary processing station (see [0048-0050]).

For claim 4, processing station is a point of sale terminal (see [0048-0050]).

For claim 5, data processing station is preferably a site controller capable of communication with at least one adjusted and /or compiled and/or manipulated data stream (see [0107-0108]).

For claim 6, the secondary data processing station may be located either at the point of sale or at a remote location (see [0025-0026]).

For claim 7, processing station is capable of uploading of statistical data and down loading configuration data (see [0002]).

For claim 8, processing station may perform tasks such as validation of a customer coupon (see [0055-0056]).

For claim 12, wherein the source of data comprises a magnetic card (see [0002,0005,0007,0038]).

For claim 14, the system wherein the source data comprises a key board (see [0037]).

For claim 16, the system wherein the output comprises a customer display (see [0053]).

For claim 18, the system wherein the device comprises an EFTPOS (see the Abstract).

For claim 21, wherein the interface enables data transmitted between said input and the first processing station to be intercepted for secondary adjustment, compilation, manipulation, variation or the like (see [0065] and [0107]).

For claim 22, wherein, the interface is in communication with a remote server and the remote server is in communication with a controller which links one or more remote sites to the remote server(see [0029-0034]).

For claim 23, A system for interrupting data in a data stream: the system comprising a source of electronic data, an input provided by the source of data and capable of transmission of said data to a first data processing station (payment card and loyalty card transmitting data to loyalty terminal see [0048]) , ', an output in communication with and from said data processing station (output reports, see [0050])', an interface intermediate said input from said source of electronic data and said central processing station', wherein, the interface is capable of interrupting data from said input before it reaches the processing station', whereupon said data is processed at a secondary processing station wherein the data is used for adjusting and /or compiling said data for use at the first processing station (see [0065]).

For claim 26, wherein, the interface is in communication with a remote server and the remote server is in communication with a controller which links one or more remote sites to the remote server(see [0029-0034]).

For claim 35, A method for obtaining data from a data stream to enable collection and/or amendment of said data prior to delivery of said data to a final location', the method comprising the steps of:

a) taking a system comprising', a source of electronic data, an input provided by the source of data and capable of transmission of said data to a first data processing station; and an output in communication with said data processing station (payment card and loyalty card transmitting data to loyalty terminal and output reports (see [0048,0050]) ',

b) placing an interface intermediate said input from said source of electronic data and said central processing station',

c) enabling the interface to interrupt data from said input before it reaches the first processing station', and

d) adjusting and/or compiling said data;

e) presenting said adjusted and/or compiled data at at least one system peripheral device (see [0065]).

For claim 38, software interface associated with the first processing station (see [0061]).

For claim 40, A method for obtaining data from a data stream to enable collection and/or amendment of said data prior to delivery of said data to a final output location',

the method comprising the steps of:

a) taking a system comprising', a source of electronic data, an input provided by the source of data and capable of transmission of said data to a first data processing station', and an output in communication with said data processing station (payment card and loyalty card transmitting data to loyalty terminal and output reports (see [0048,0050]) ',

b) placing a software interface intermediate said input from said source of electronic data and said central processing station',

c) enabling the interface to interrupt data from said input before it reaches the first processing station', and

d) adjusting and /or compiling said data;

e) delivering said adjusted and/or compiled data at at least one system peripheral device reports (see [0065]) ',

For claim 45, the output data may contain content that is pre-loaded into the Interface (see[0104]).

For claim 53, wherein the remote output device may perform the following function', the use of a connecting network to obtain promotional or other material in real-time for inclusion in output data (see [0005]).

For claim 55, A system according to claim 1 wherein the intelligent interface is capable of performing any one of the following functions:

a) Generation of discount vouchers.

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- b) Generation of discount vouchers with regard to product purchases (see [0016,0055,0058]).
- c) Implementation of a lottery where a lottery ticket is generated in response to a transaction value exceeding a threshold.
- c) Implementation of a prize-draw promotion where a stub ticket is printed and a winner is drawn from a pool of entries.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 9-10,13,15,17,20,24-25,27-34,36-37,39,41-44,52,54 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrer et al.,US 2002/0032628 in view of Schulze,Jr, US 6,497,360 B1.

Ferrer et al. as set forth above, shows that a source of electronic data, input/output to interface but does not mention features such as POS printer, scanner, modem and wired network . However, Schulze,Jr discloses a POS printer, scanner (see Fig.2, Fig. 3, and col.5, lines 8-14 and col.5, lines 43-55) ,modem (see col.6, lines 1-26 and wired network (see col.5, lines 56-67 and col.6, lines 1-26) in a POS system. It would have been obvious to one of the ordinary skill in the art at the invention was made to modify the method and apparatus for enhancing communication between

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points of sale devices of Ferrer et al. by providing a POS printer, scanner, modem and wired network, as taught by Schulze, Jr to improve the functionality of the system.

Conclusion


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Azam Cheema whose telephone number is 571-270-1753. The examiner can normally be reached on Monday-Friday 7.30a.m-5.00p.m ALT Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Reynolds can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AC

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Primary Examiner
Thomas Pham